

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1019

AN ACT to amend the Indiana Code concerning pensions.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 5-10-8.5-18, AS ADDED BY P.L.44-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE AUGUST 1, 2007 (RETROACTIVE)]: Sec. 18. ~~(a) Except as provided in subsection (b);~~ The balance in a retired participant's subaccount may be used by the retired participant and the spouse and dependents of the retired participant to pay premiums for individual or group health coverage. ~~provided by an insurance policy:~~

~~(b) If the budget agency requests and receives from the Internal Revenue Service an appropriate ruling or determination letter, the balance in a retired participant's subaccount also may be used to pay:~~

~~(1) premiums for individual or group health coverage provided by a means other than an insurance policy; and~~

~~(2) sickness, accident, hospitalization, and medical expenses of the retired participant, and the spouse and dependents of the retired participant.~~

SECTION 2. IC 5-10.2-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 6. (a) A member who becomes disabled while receiving a salary or employer provided income protection benefits or who is on leave under the Family and Medical Leave Act may retire for the duration of

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**his the member's** disability if:

- (1) the member has at least five (5) years of creditable service before the:
  - (A) termination of a salary or employer provided income protection benefits or Family and Medical Leave Act leave; or
  - (B) exhaustion of all worker's compensation benefits;
- (2) the member has qualified for Social Security disability benefits and has furnished proof of the Social Security qualification to the board; and
- (3) at least once each year until the member reaches age sixty-five (65) a representative of the board verifies the continued disability.

For the purposes of this section, a member of the public employees' retirement fund who has qualified for disability benefits under the federal civil service system is considered to have met the requirement of subdivision (2) if **he the member** furnishes proof of the qualification to the board of the public employees' retirement fund.

(b) Benefits for disability shall be paid beginning with the month following the onset of disability as determined by the Social Security Administration. The benefit is the retirement benefit specified in section 4 of this chapter with the pension computed using only the years of creditable service worked to the date of disability and without reduction for early retirement. However, the monthly disability retirement benefit may not be less than one hundred **eighty** dollars ~~(\$100): (\$180).~~

(c) The member may have **his the member's** benefit paid under any of the retirement benefit options specified in section 7 of this chapter, except that the member may not choose to have the member's disability retirement benefit paid under the method specified under section 7(b)(3) of this chapter.

(d) This section applies to:

- (1) a member of the public employees' retirement fund who became disabled after June 30, 1973; and
- (2) a member of the Indiana state teachers' retirement fund who becomes disabled after June 30, 1984, and who chooses disability retirement under this section.

(e) To the extent required by the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations to the Act, the transcripts, records, and other material compiled to determine the existence of a disability shall be:

- (1) kept in separate medical files for each member; and
- (2) treated as confidential medical records.

(f) A member may continue to receive disability benefits from the

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public employees' retirement fund or the Indiana state teachers' retirement fund so long as the member is entitled to receive Social Security benefits, including periods of trial employment or rehabilitation under the Social Security guidelines. However, during a period of trial employment or rehabilitation, service credit may not be granted under the public employees' retirement fund or the Indiana state teachers' retirement fund.

**(g) If the fund is authorized to make, in the form of a single check or a series of checks, a one (1) time distribution that does not increase the pension portion of the monthly benefit, the distribution must include members eligible for disability benefits. A member eligible for disability benefits is required to meet all additional requirements necessary to receive the check or series of checks issued by the fund under this subsection.**

SECTION 3. IC 5-10.2-5-43.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 43.4. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after December 31, 2008, to a member of the Indiana state teachers' retirement fund (or to a survivor or beneficiary of a member of the Indiana state teachers' retirement fund) who retired or was disabled:**

**(1) before July 2, 2000, shall be increased by two percent (2%); and**

**(2) after July 1, 2000, and before July 2, 2006, shall be increased by one percent (1%).**

**(b) The increases specified in this section:**

**(1) are based upon the date of the member's latest retirement or disability;**

**(2) do not apply to benefits payable in a lump sum; and**

**(3) are in addition to any other increase provided by law.**

SECTION 4. [EFFECTIVE AUGUST 1, 2007 (RETROACTIVE)] IC 5-10-8.5-18, as amended by this act, applies to premiums paid after July 31, 2007, for individual or group health coverage for a retired participant and the spouse and dependents of a retired participant.

SECTION 5. [EFFECTIVE UPON PASSAGE] **(a) This SECTION applies to a retired state employee who:**

**(1) retired after July 31, 2007;**

**(2) either:**

**(A) was eligible on the retired state employee's retirement**

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date to participate in the group health insurance program described in IC 5-10-8-8 but did not file a written request to participate in the group health insurance program described in IC 5-10-8-8 within ninety (90) days after the retired state employee's retirement date as required by IC 5-10-8-8(f); or

(B) is eligible to participate in the state group health insurance program described in IC 5-10-8-8 and, on April 1, 2008, has fewer than sixty (60) days after the retired state employee's retirement date to file a written request to participate in the group health insurance program described in IC 5-10-8-8 as required by IC 5-10-8-8(f); and

(3) was eligible on the retired state employee's retirement date to receive a benefit from the retirement medical benefits account established under IC 5-10-8.5.

(b) Notwithstanding IC 5-10-8-8(f), a retired state employee has sixty (60) days after April 1, 2008, to file with the employer from whom the retired state employee retired a written request to participate in the group health insurance program described in IC 5-10-8-8. The employer shall accept the retired state employee's request and allow the retired state employee to participate in the group health insurance program described in IC 5-10-8-8, if the retired state employee:

- (1) is otherwise eligible to participate in the program; and
- (2) complies with the requirements of the program, including payment of the employer's and employee's premium for the group health insurance for an active employee.

(c) A retired state employee who elects under subsection (b) to file a written request to participate in the group health insurance program described in IC 5-10-8-8 may use the balance in the employee's subaccount of the retirement medical benefits account to pay the premiums for the coverage, as provided in IC 5-10-8.5-18, as amended by this act.

(d) This SECTION expires December 31, 2008.

SECTION 6. [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] IC 5-10.2-4-6, as amended by this act, applies to disability retirement benefits payable by the Indiana state teachers' retirement fund and the public employees' retirement fund after December 31, 2007.

SECTION 7. An emergency is declared for this act.

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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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